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named as Wells Fargo N.A. and America's Servicing Company)*

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DIMITRITZA TOROMANOVA and
DAVID-WYNN MILLER

Plaintiffs,

vs.

WELLS FARGO N.A., SOMA
FINANCIAL, MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS INC., AMERICA'S
SERVICING CO., NEVADA TITLE,
NATIONAL DEFAULT SERVICING
CORPORATION,

Defendants.

CASE NO. 2:10-cv-02080-KJD -PAL

**DEFENDANT WELLS FARGO BANK,
N.A.'S REPLY IN SUPPORT OF
MOTION TO DISMISS**

Defendant Wells Fargo Bank, N.A., incorrectly named as "Wells Fargo N.A." and America's Servicing Company¹ ("Wells Fargo") files this reply in support of its Motion to Dismiss Plaintiffs' Complaint, ECF #5.

MEMORANDUM OF POINTS AND AUTHORITIES

As explained in the Motion to Dismiss, Plaintiff's Complaint must be dismissed for failure to comply with FRCP 8 because Wells Fargo is unable to comprehend the statements in the Complaint. Additionally, the Complaint does not survive a motion to dismiss under FRCP

¹ America's Servicing Company is the doing business as name of the servicing division of Wells Fargo Bank, N.A.

1 12(b)(6) because it does not contain on its face sufficient facts to state a claim to relief. In sum,
 2 Wells Fargo does not have notice of the nature of the claims against it.

3 This Court should grant the Motion to Dismiss for the reasons stated therein, and because
 4 Plaintiffs failed to file points and authorities in response to the motion. Pursuant to Local Rule 7-
 5 2(b), points and authorities in response to the Motion to Dismiss were due January 10, 2011.
 6 Local Rule 7-2(d) states that the "failure of an opposing party to file points and authorities in
 7 response to any motion shall constitute a consent to the granting of the motion."

8 Plaintiffs filed a document on January 13, 2011 (ECF #11), but such document is not a
 9 response to the Motion to Dismiss. The document appears on the docket as "Supplement: Quo-
 10 Warranto-Complaint-Document" and the document is titled "Quo-Warranto-Complaint-
 11 Document" rather than a response or opposition to the Motion to Dismiss. Even if the document
 12 was filed in response to the Motion to dismiss, it does not contain reference to any legal authority
 13 in support of any claims, and like the Complaint, Wells Fargo is unable to understand the
 14 document's contents. Because Plaintiffs failed to file points and authorities in response to the
 15 Motion to Dismiss pursuant to Local Rule 7-2, and because the Complaint does not comply with
 16 FRCP 8 and does not state any claims for relief, Wells Fargo requests that this Court grant its
 17 Motion to Dismiss with prejudice.

18 Dated: January 24, 2011

SNELL & WILMER, L.L.P.

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 20 By: 

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 N.A. (incorrectly named as Wells Fargo
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CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing DEFENDANT WELLS FARGO BANK, N.A.'S REPLY IN SUPPORT OF MOTION TO DISMISS by method indicated below:

 X U.S. Mail
 Electronic Delivery
 Facsimile Transmission
 Federal Express

And addressed to the following:

Dimitritza Toromanova
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Plaintiffs Pro Se

Michael F. Bohn, Esq.
LAW OFFICES OF MICHAEL F. BOHN, ESQ., LTD.
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Attorney for Defendant Nevada Title Company

Dated this 24th day of January, 2011.


An employee of Snell & Wilmer L.L.P.

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